

The Sports Rights Owners Coalition Submission to the European Commission's Content Online Consultation (Com (2007) 836 final)



The Sports Rights Owners Coalition ("SROC") is an informal group of representatives of international and national sports bodies with a particular focus on rights issues. SROC operates as a forum through which sports bodies can share information and experiences. In particular, the purpose of SROC is to enable:



- discussion and sharing of best practice on key legal, political and regulatory issues;
- awareness raising of new developments and innovation in sports rights; and
- sports to take joint action to protect and promote their rights, including the prevention of piracy of their events.



Individually and collectively, we represent some of the leading and most popular sports throughout the world, attracting millions of spectators, with many of our events available for consumers to enjoy across a growing variety of platforms.



General Comments on the Consultation



SROC considers content creation, production and distribution to be at the heart of its operations. As such, SROC and its member bodies have a significant interest in the Content Online initiative and the EU's wider work in this area. Although surprised to be omitted from the initial Creative Content Communication given our involvement in the process to date, we welcome the opportunity to comment as part of the consultation. SROC members also look forward to contributing to the process going forward.



Sports events have been part of the growth of online and mobile audiovisual content from the very beginning, complementing and extending their established role in traditional programming. This is testament not only to the popularity of this form of entertainment, but also to the significant investments made by sports rights owners and the related industries. As such, sports play a key role in the uptake of online content, in parallel with the 'traditional' cultural industries such as music and film.



Sports rights holders create significant amounts of content for a wide range of audiovisual distributors. Sport is attractive to pirates and to commercial undertakings looking to create profit from sports content without contributing to the development and advancement of sport. For SROC, therefore, the single most important factor required to drive the development of innovative content services online focused on the needs of consumers is a comprehensive regime to protect Intellectual Property Rights ("IPR"). As the owners of substantial sports content, we have a specific interest in the IPR regulatory framework, which extends to ensuring that programmes carrying signals which feature our sports rights are adequately protected against unauthorised use. The IPR framework does not present an obstacle to the development of online content and services. It is our view that the contrary applies. It underpins innovation and investment and ability to secure a fair return for sports.



Investment in sport at every level – investing in talent development and in people and facilities at the grassroots, as well as at the elite levels – is dependent on achieving the proper returns due to the creators of sporting content. This is important not only to the sports themselves, but also to the wider economy, with sport making an increasing contribution to European GDP.¹



¹ A study commissioned by the 2006 Austrian Presidency suggested that the broader sports industries accounted for 3.7% EU GDP, employing 5.4% of the labour force and generated a value added of 407 billion euros in 2004. See D. Dimitrov et al – *Die makroökonomischen Effekte des Sports in Europa*, Studie im Auftrag des Bundeskanzleramts, Sektion Sport, Wien, 2006.



Response to Q1-5: DRMs

SROC members consider technological protection measures (DRMs) to be an effective tool in the fight against piracy. Any measures aimed at improving the consumer experience should also take account of the need for content owners to protect their intellectual property in an effective manner. We continually strive to improve the consumer experience. Regulation of DRMs risks undermining the continuous investment necessary for the technological developments required to limit the spread of piracy. It is important that consumers are made properly aware of the nature of DRM-protected material before they purchase it, but as they already have the standard protections provided by trading standards and competition law no other intervention is needed. Consumer choice is likely to be restricted if content owners are inhibited by poor IPR protection from bringing material to the market and so DRMs can be significant in creating the conditions for content owners to innovate and invest.



Response to Q6-8: Multi-Territory Rights Licensing

SROC members believe that the current evidence demonstrates that existing territorial models of rights sales function effectively, and adequately cater for national or cultural demands. We would draw attention to the fact that the existing framework provides many benefits, not least that it is tailored to Europe's highly heterogeneous consumer demands across Member States. Further, we would highlight the lack of barriers to the development of multi-territory or pan-European licensing – except the lack of demand from consumers themselves.



SROC would urge the Commission to proceed cautiously before considering any mandatory multi-territorial licensing framework, and to base any policy decisions on in-depth analysis and an impact assessment, given the sensitivity of such a major issue and its potential impact on rights selling. Individual markets will adapt if there is demand for such services, and any 'one-size-fits-all' solution would be misguided. SROC would also highlight the need to consider the potential market barriers that multi-territorial licensing could create for new market entrants – potentially limiting competition in some of Europe's most vibrant sectors. Diversity should be a policy objective, and weakening the territorial basis of rights could inhibit nationally-based media organisations from maintaining and improving their services to consumers.



Response to Q9-11: Piracy and Stakeholder Cooperation

As outlined above, major sports events and competitions are particularly vulnerable to attack from pirates. As acknowledged by the European Commission in its July 2007 White Paper on Sport,² the economic viability of exploiting sports rights relies on the availability of effective means of protecting against the activities of infringers at national and international levels. Sports suffer from piracy in similar ways to the music and film industries, but also face unique challenges due to the nature of "live" sports event broadcasts. The phenomenon of internet streaming of live sporting events and Peer-to-Peer ("P2P") piracy is a very real example of the need for a strong response to new trends in digital piracy. Furthermore, while the growth in user-generated online content may be regarded as an exciting development for industry and consumers alike, it is crucial to make sure that these activities do not infringe existing rights, subsequently damaging rights owners' ability to continually invest in their industry and future content.



Any consideration of online content must recognise the need for all stakeholders to co-operate in the fight against such unlawful use. SROC would urge that any future initiative acknowledges the responsibility of network providers and intermediaries to work with all parties to ensure only legitimate content is exploited. Internet Service Providers ("ISPs") form a key part in the 'chain' of online content provision, and thus have a key role to play in



² The European Commission White Paper on Sport, July 2007 (COM(2007) 391)

ensuring their subscribers act responsibly when accessing and distributing content. The effective enforcement of contractual terms and conditions between ISPs and subscribers who infringe IPR is a vital and currently available tool in reducing piracy online. Indeed, the French 'Olivennes' Memorandum of Understanding is a welcome development in that it proactively attempts to ensure all stakeholders are involved in fighting piracy. SROC members would strongly urge the Commission to examine how all relevant interest groups could better work together to ensure online violations of copyright are reduced.

The growth of technology leads to very fast developing markets with a global outlook. There is a pressing need to acknowledge the scale of piracy taking place outside of the EU's borders, often targeting final markets back within the EU. Any consideration of online piracy would not be complete without reference to the need for internationally recognised and enforced regimes for the protection of IPR. The Commission's initiative can play an important role in ensuring online IPR infringement is reduced by means not only of effective legislation, but also robust enforcement efforts – both inside and outside the Internal Market.

Conclusion

SROC's membership covers a wide range of sports from across the world. We are therefore in a position to offer examples of the problems faced by sport, as more and more content becomes available online, and of current practice, and the way different our industries address those challenges to date. Sports rights owners play a significant role in the growth in online and mobile audiovisual content, and we look forward to the exciting opportunities content online will bring to enhancing the experience of the viewer.

Therefore, SROC calls upon the Commission to ensure that the Content Online initiative:

- takes due account of the importance of a robust IP framework as the basis for European and international content services to flourish;
- addresses the significant threat that piracy poses to the growth of legitimate online content distribution;
- proceeds in this area only after careful assessment of the evidence and full impact analysis of any proposed changes
- allows the market to dictate the future direction of both DRMs and rights licensing, in order to ensure investment and subsequent innovation is not harmed by regulation; and
- tackles the need to ensure ISPs and network intermediaries are actively involved in stopping the illegitimate use of sports content.

